

UNITED NATIONS

NATIONS UNIES

**International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda**

CASE NO.: ICTR-97-36-I

THE PROSECUTOR

AGAINST

**Emmanuel BAGAMBIKI
Samuel IMANISHIMWE
Yussuf MUNYAKAZI**

ICTR
CRIMINAL REGISTRY
RECEIVED

1999 DEC -2 P 1:02

AMENDED INDICTMENT

1. The Prosecutor of the International Criminal Tribunal for Rwanda, pursuant to the authority stipulated in Article 17 of the Statute of the Tribunal of the International Criminal Tribunal for Rwanda (the Statute of the Tribunal) charges:

**Emmanuel BAGAMBIKI
Samuel IMANISHIMWE
Yussuf MUNYAKAZI**

with **GENOCIDE, COMPLICITY IN GENOCIDE, CONSPIRACY TO COMMIT GENOCIDE, CRIMES AGAINST HUMANITY and SERIOUS VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS and of ADDITIONAL PROTOCOL II** thereto all offences stipulated in Articles 2, 3 and 4 of the Statute of the Tribunal.

2. THE ACCUSED

2.1 Emmanuel BAGAMBIKI was born in Cyangugu *préfecture*. Throughout the events referred to in this indictment, until he left Rwanda, the accused held the office of *Préfet* of Cyangugu *préfecture*. Before that, he held the office of *Préfet* of Kigali-Rural *préfecture*. He was a member of the MRND.

2.2 Samuel IMANISHIMWE was born in Nyamitaba, Masisi region, in the Democratic Republic of Congo. His parents were from Nkuli *commune*, Ruhengeri *préfecture*. On 6 April 1994, he held the position of Commander of

the Cyangugu barracks and had the rank of Lieutenant. In 1993, he held the position of officer of the staff of the G-3, attached to the General Staff of the Rwandan Army in Kigali.

2.3 **Yussuf MUNYAKAZI** was born in Rwamatamu Commune, Kibuye *préfecture*, Rwanda. Throughout the period referred to in this indictment, until he left Rwanda, the accused was a businessman in Bugarama *commune*, Cyangugu *préfecture*, and led a group of militiamen of the MRND, the *Interahamwe*.

3. CONCISE STATEMENT OF FACTS.

3.1 Unless otherwise stated, the violations of international humanitarian law referred to in this indictment took place in Rwanda between 1 January and 31 July 1994.

3.2 During the events referred to in this indictment, the Tutsi, the Hutu and the Twa were identified as ethnic or racial groups.

3.3 During the events referred to in this indictment, there were in Rwanda widespread or systematic attacks against a civilian population based on political, ethnic or racial grounds.

3.3.1 After the Rwandan Patriotic Front (RPF) attack of October 1990, the Rwandan Government policy was characterized by the identification of the Tutsi as the enemy to be defeated.

3.3.2 This policy defined the main enemy as the Tutsi from inside or outside the country, who wanted power, who did not recognize the achievement of the revolution of 1959 and who was seeking armed confrontation. The secondary enemy was defined as those who provided any kind of assistance to or sympathized with the main enemy.

3.4 During the time of the events referred to in this indictment, there was an armed non-international conflict in the territory of Rwanda, between the Government of Rwanda and the Rwandan Patriotic Front (RPF). The victims mentioned in this indictment were Tutsi civilians in Cyangugu and Kibuye Prefectures and were protected persons, according to the meaning of Article 3 common to the Geneva Conventions and of Additional Protocol II thereto, and did not actively participate in the conflict.

3.4.1 Emmanuel BAGAMBIKI, Samuel IMANISHIMWE and Yusuf MUNYAKAZI intended the attacks described in this indictment on these victims to be part of the non-international armed conflict because the Tutsi civilians were considered enemies of the Government and / or accomplices of the RPF. BAGAMBIKI, IMANISHIMWE and MUNYAKAZI set out to destroy the Tutsi enemy as defined in paragraphs 3.3.1 and 3.3.2 above, in furtherance of Government policy to defeat the RPF.

3.5 During the events referred to in this indictment, the MRND (*Mouvement Républicain National pour le Développement et la Démocratie*) was one of the political parties. The members of its youth wing were called the "Interahamwe." Most of them subsequently became part of a para-military militia group.

3.6 At prefectural level, the *Préfet* is the most senior government representative and possessor of the State's authority at the local level. The *Préfet* carries out his duties under the hierarchical authority of the Minister holding the portfolio of the Interior. The *Préfet's* authority covers the entire *prefecture*. In his capacity as *Préfet* of Cyangugu, Emmanuel BAGAMBIKI had to carry out the duties attached to his office, notably:

- Run the *préfecture* in conformity with the laws and regulations in force and ensure their implementation and observance;
- Ensure peace, public order and the safety of people and property;
- Assist and supervise the communal authorities;
- Inform the central body of the situation in the *préfecture* and of any event of interest.

3.7 In the *prefecture*, the *Préfet* is in charge of ensuring peace, public order and the safety of people and property. The *Préfet* may, in the discharge of his duties, request the intervention of the army and of the *Gendarmerie Nationale*. The *Gendarmerie Nationale* is an armed body set up to maintain public order and the observance of laws. It falls under the Ministry of National Defense but can carry out its duties of ensuring public order at the request of the national authority having jurisdiction, namely the *Préfet*. In cases of emergency, this request can be made verbally, notably by telephone. The request must be carried out immediately.

In addition, the *Gendarmerie Nationale* is obliged to transmit to the *Préfet* all information relating to public order and has the duty to assist anyone in danger who requests its help.

3.8 As *Préfet*, Emmanuel BAGAMBIKI exercised *de jure* and *de facto* authority over his subordinates, notably:

- All the *sous-préfets*;
- All the *bourgmestres* of the communes and all public administration staff in the communes;
- All the heads of public administration departments, who are ex-officio members of the prefectural committee chaired by the *Préfet*;
- All the administrative staff of the *préfecture*;
- All staff under contract with the prefectural administration;
- All government employees in the *préfecture*.

3.9 Furthermore, **Emmanuel BAGAMBIKI**, by virtue of his office, exercised *de facto* authority over his subordinates and over others, notably army units and Interahamwe.

3.10 During the events referred to in this indictment, Lieutenant **Samuel IMANISHIMWE**, in his capacity as Commander of the Cyangugu Barracks, exercised *de facto* and *de jure* authority over army units in Cyangugu *préfecture*.

3.11 During the events referred to in this indictment, **Yussuf MUNYAKAZI** was the leader of a group of MRND militiamen, the *Interahamwe*. Due to the influence he had and the functions he carried out, **Yussuf MUNYAKAZI**, exercised *de facto* authority over the *Interahamwe* militiamen in Cyangugu who perpetrated massacres of civilian Tutsi population.

3.12 During the events referred to in this indictment, *Préfet* **Emmanuel BAGAMBIKI** chaired many meetings of the "restricted security committee" of the *préfecture* of Cyangugu, the body responsible for the safety of the civilian population of the *préfecture*, meetings in which **Samuel IMANISHIMWE** participated in his capacity as the Commander of the Cyangugu Barracks, as well as the Commander of the *Gendarmerie*, the *sous-préfets* and others. One of these meetings was held on or about 9 April 1994.

3.13 Furthermore, on at least two occasions, on or about 11 April 1994 and on or about 18 April 1994, *Préfet* **Emmanuel BAGAMBIKI** chaired meetings of the 'prefectural committee' of the Cyangugu *préfecture*, where problems relating to the safety of the civilian population of the *préfecture* were discussed. Members of the "restricted security committee", particularly *Préfet* **Emmanuel BAGAMBIKI** and Lieutenant **Samuel IMANISHIMWE** as well as all the *bourgmestres*, representatives of political parties and different churches, attended these meetings.

3.14 Before and during the events referred to in this indictment,

Emmanuel BAGAMBIKI, *Préfet* of Cyangugu

André NTAGERURA, Minister of Transport and Communications

Yussuf MUNYAKAZI, *Interahamwe* leader

Christophe NYANDWI, an official in the Ministry of Planning

Michel BUSUNYU, MRND Chairman for Karengera *commune*, and

Édouard BANDETSE, *Interahamwe* leader

all of whom were prominent figures within the MRND in Cyangugu, held a large number of meetings among themselves, or with others, including members of the CDR, where they incited, prepared, organized and conspired to commit genocide.

These meetings took place in diverse locations throughout Cyangugu *préfecture*, in the *sous-préfectures* and in the *communes*, including public gathering places such as Kamarampka stadium, and also in restricted locations, such as bars and private residences, notably:

- (a) towards late 1993, in Kirambo *commune*, with members of the MRND;
- (b) towards late 1993 and early 1994, in Augustin MIRUHO's drinking place in Karangiro, with the participation of Félicien BALIGIRA, a former parliamentarian, Simeon NTEZIRYAYO, the Manager of SONARWA, KAYIJAMAHE, the Manager of STIR, and others;
- (c) in February 1994, in André NTAGERURA's house, Karengera *commune*, with the participation of **Yussuf MUNYAKAZI**, an *Interahamwe* leader, Christophe NYANDWI, a civil servant in the Ministry of Planning, Édouard BANDETSE, an *Interahamwe* leader, and other members of the MRND;
- (d) on 7 February 1993, at Bushenge market, with the participation of André NTAGERURA, **Emmanuel BAGAMBIKI**, **Yussuf MUNYAKAZI**, Michel BUSUNYO, Callixte NSABIMANA, Félicien BALIGIRA and other members of the MRND;
- (e) on 18 May 1994, at the MRND headquarters, in Cyangugu, organized by President Théodore SINDIKUBWABO, with the participation of André NTAGERURA, Minister of Transport, Daniel MBANGURA, a Minister, together with civilians and religious figures and others;
- (f) from 1993 to early 1994, in Gatara *commune*, with participation of André NTAGERURA, **Yussuf MUNYAKAZI** and **Emmanuel BAGAMBIKI**;
- (g) on or about 28 January 1994, in Bugarama, with the participation of André NTAGERURA and **Yussuf MUNYAKAZI**;
- (h) In late June 1994, in Gisuma, with the participation of **Emmanuel BAGAMBIKI** and Samuel IMANISHIMWE.

3.15 Also, during this same period, André NTAGERURA, Yussuf MUNYAKAZI and Emmanuel BAGAMBIKI publicly expressed anti-Tutsi sentiments.

3.16 Before and during the events referred to in this indictment, Minister André NTAGERURA, *Préfet* Emmanuel BAGAMBIKI, Yussuf MUNYAKAZI, Christophe NYANDWI, all of whom were influential figures in the MRND in Cyangugu, and Samuel IMANISHIMWE, participated directly or indirectly, in the recruitment, training and instructing of, the MRND militiamen, the Interahamwe, who later committed massacres of the civilian Tutsi population.

3.16 i) From 1993 and during the events referred to in this indictment, André NTAGERURA, Emmanuel BAGAMBIKI, Samuel IMANISHIMWE, and Yussuf MUNYAKAZI participated in the procurement and distribution of boots, uniforms or uniform material, weapons, including grenades, rifles and ordnance, traditional arms, including clubs and machettes to the Interahamwe. These weapons were used to massacre tens of thousands of Tutsi and moderate Hutu civilians throughout Cyangugu and elsewhere in Rwanda.

3.16 ii) From 1993 and during the events referred to in this indictment, André NTAGERURA, Emmanuel BAGAMBIKI, Samuel IMANISHIMWE and Yussuf MUNYAKAZI, participated in the provision of transport for soldiers and Interahamwe. For example, Emmanuel BAGAMBIKI requisitioned and distributed State owned vehicles such as ONATRACOM buses and project vehicles. This transport was used by soldiers and Interahamwe to travel to and from training sites and massacre sites.

3.16iii) Throughout Cyangugu prefecture, Tutsi and moderate Hutu fled their homes in fear of their lives, hoping to find safety in numbers. They hoped that by gathering in public buildings, such as schools, churches and hospitals, they would find the protection of the authorities. Some even attempted to flee across the border into Zaire. However, on 8 April 1994, Emmanuel BAGAMBIKI and Samuel IMANISHIMWE had instructed the border guards to prevent any crossing into Zaire.

3.16 iv) During the events referred to in this indictment, Emmanuel BAGAMBIKI and Samuel IMANISHIMWE gave direct orders to subordinates, soldiers and others, including Yussuf MUNYAKAZI and Interahamwe to carry out the attacks on refugees. Emmanuel BAGAMBIKI and Samuel IMANISHIMWE traveled throughout the prefecture supervising, facilitating, and coordinating the massacres. In some instances they provided material back-up, such as grenades.

3.17 During the events referred to in this indictment, Lieutenant **Samuel IMANISHIMWE**, in his capacity as Commander of the Cyangugu Barracks, participated, with *Préfet* **Emmanuel BAGAMBIKI** and other persons, in preparing lists of people, mostly Tutsi and some Hutu in the opposition, to eliminate.

3.18 These lists were given to the soldiers and militiamen with orders to arrest and kill the persons whose names were listed. The soldiers and the *Interahamwe* then carried out the orders.

3.19 In early April 1994, many Tutsi sought refuge at Cyangugu Cathedral to protect themselves from the attacks against them. On or about 11 April 1994, the attacks on the refugees at the cathedral began. The attacks were carried out by groups of *Interahamwe* militiamen, including a group led by **Yussuf MUNYAKAZI**.

3.20 Following the first attack, on or about 11 April 1994, some refugees were arrested and taken to the Cyangugu Barracks before Lieutenant **Samuel IMANISHIMWE**, who gave the order to execute them.

3.21 On or about 15 April 1994, *Préfet* **Emmanuel BAGAMBIKI** and Lieutenant **Samuel IMANISHIMWE** ordered that the refugees at the Cathedral be moved to Cyangugu Stadium. The refugees who refused to obey were threatened with death.

3.22 On or about the 15 April 1994, the refugees from the cathedral were escorted to Kamarampaka Stadium in Cyangugu by the civilian and military authorities, including *Préfet* **Emmanuel BAGAMBIKI** and Lieutenant **Samuel IMANISHIMWE**. At the stadium, many other refugees were already there, and later, others came in to join them. They remained there for several weeks, with insufficient access to water, food, sanitation or health care. As a result of the poor conditions, many refugees died.

During this period, the refugees could not leave the stadium, which was guarded by *gendarmes*. Those who attempted to leave the stadium were either forced back inside by the *gendarmes*, or were executed by the *Interahamwe* and the *gendarmes* who were outside the stadium. Also, during this period, *Interahamwe* would enter the stadium to abduct refugees and execute them.

3.23 On several occasions between April and June 1994, the authorities in Cyangugu, notably *Préfet* **Emmanuel BAGAMBIKI**, Lieutenant **Samuel IMANISHIMWE** and Minister André NTAGERURA, selected names from

pre-established lists of the refugees who were inside the stadium, mostly Tutsi and some Hutu in the opposition. These refugees were then arrested and later executed in a place called Gatandara.

3.24 Between April and July 1994, Lieutenant **Samuel IMANISHIMWE** participated with his soldiers in the selection and arrest of Tutsi, some of whom were later executed at the Cyangugu Barracks. Also, Lieutenant **Samuel IMANISHIMWE** ordered soldiers to execute certain people suspected of being Tutsi.

3.24 (i) During the same period, **Samuel IMANISHIMWE** on various occasions, publicly shot dead Tutsi soldiers, or soldiers he suspected of being Tutsi, using his pistol. Sometimes he forced them to undress before shooting them.

3.25 Between April and July 1994, Tutsi and moderate Hutu were arrested and taken to the Cyangugu Barracks to be tortured and executed. Also, during this period, soldiers participated on several occasions with MRND militiamen, the *Interahamwe* in massacres of the civilian Tutsi population.

3.26 On at least two occasions in April 1994, *Préfet* **Emmanuel BAGAMBIKI** ordered soldiers and MRND militiamen, the *Interahamwe*, to kill members of the civilian Tutsi population and certain Hutu in the opposition.

3.27 Between April and July 1994, subordinates of *Préfet* **Emmanuel BAGAMBIKI**, notably *sous-préfets*, *bourgmestres*, government employees and *gendarmes*, participated in the massacres of the civilian Tutsi population and of certain Hutu in the opposition.

3.28 During the events referred to in this indictment, *Préfet* **Emmanuel BAGAMBIKI** had the duty of ensuring the protection and safety of the civilian population within his *préfecture*. On several occasions in April 1994, *Préfet* **Emmanuel BAGAMBIKI** failed or refused to assist those whose lives were in danger who asked for his help, particularly in Gatare, Cyimbogo, Gafunzo, and Kagano *communes*, where those Tutsi were massacred.

3.29 Between April and July 1994, **Yussuf MUNYAKAZI** led militiamen of the MRND, the *Interahamwe*, who participated in massacres of the civilian Tutsi population and Hutu political opponents in Cyangugu *préfecture* and elsewhere, notably Kibuye *préfecture*.

3.30 During the events referred to in this indictment, the militiamen, *i.e.* the *Interahamwe*, with the help of the soldiers, participated in the massacres of the civilian Tutsi population and of Hutu political opponents in Cyangugu *préfecture* and elsewhere, notably Kibuye *préfecture*.

3.31 During the events referred to in this indictment, several tens of thousands of civilians, mostly Tutsi, in Cyangugu *préfecture*, were massacred, including at the following locations:-

- . Shangi parish, Gafunzo Commune
- . Mibilizi parish, Cyimbogo Commune
- . Nyamasheke parish, Kagano Commune
- . Hanika parish, Gatara Commune
- . Gashirabwoba football field, Gisuma commune.

3.32 Among the persons fleeing their homes, as mentioned in paragraph 3.16 (iii) above, were thousands of Tutsi women and girls. **Emmanuel BAGAMBIKI**, and **Samuel IMANISHIMWE** directed the fleeing population, to take refuge in specifically designated locations, notably Kamarampaka Stadium and Nyarushishi camp, where **Emmanuel BAGAMBIKI** assured them they would be secure. Many women and girls were raped and sexually violated in these locations, or were taken by force or coerced to other locations, where they were raped and subjected to acts of sexual violence by soldiers and *Interahamwe*.

3.32 (i) In most cases the rapes were aggravated by inhumane acts of gang-rape, multiple rape, rape of virgin girls, rape of daughters in front of their mothers or other family members, rape resulting in Aids and other sexually transmitted diseases, rape resulting in chronic depression and other post-traumatic stress disorders, rape resulting in unplanned children, rape with violence and degrading treatment. Many acts of sexual violence were accompanied by the killing of the victim.

3.33 **Emmanuel BAGAMBIKI**, **Samuel IMANISHIMWE**, and **Yussuf MUNYAKAZI**, instigated, encouraged, facilitated, or acquiesced to, among others, the *Interahamwe* and soldiers committing the acts described in paragraphs 3.30 and 3.32, above. They knew or had reason to know that these acts were being committed and they failed to take measures to prevent, or to put an end to these acts, or punish the perpetrators.

3.34 During the events referred to in this indictment, Emmanuel BAGAMBIKI raped several women who were refugees at Karampaka Stadium, Kamembe commune and Nyarushishi camp.

3.35 During events referred to in this indictment, Samuel IMANISHIMWE raped many women at Cyangugu barracks and elsewhere, some of whom he later killed. He ordered his soldiers to dispose of the bodies, usually by throwing them in the Lac Kivu. On one occasion, at Gatandara, Samuel IMANISHIMWE attempted to rape a woman. When she resisted he paraded her naked and then shot her in the vagina with his pistol. Nearby Interahamwe decapitated her afterwards.

3.36 Emmanuel BAGAMBIKI, Samuel IMANISHIMWE and Yussuf MUNYAKAZI intended the killings and massacres, described in paragraphs 3.16 (iv) to 3.31, and the incitement and preparation for the same, described in paragraphs 3.13, 3.14, 3.15, 3.16 and 3.16 (i) to (iii) above, to be part of the non-international armed conflict against the RPF. By their actions during the period referred to in this indictment, the accused sought to eliminate any base of support for the RPF that might exist in Cyangugu prefecture. The Accused equally intended the various acts of sexual violence and incitement to sexual violence described above in paragraphs 3.32 to 3.35 as actions contributing to the non-international armed conflict against the RPF and the fulfilment of the aims of the Rwandan Government.

4. CHARGES

The violations of international humanitarian law referred to in the following charges were committed between 1st January and 31st December 1994 in the territory of the Republic of Rwanda and refer to the events described in paragraphs 2.1 - 3. 36, above.

For all of the acts described in the paragraphs specified in each of the counts the accused either planned, incited to commit, ordered, committed, or in some other way aided and abetted the planning, preparation or execution of the said acts,

and,

the accused knew, or had reason to know, that their subordinates were preparing to commit or had committed one or more of the acts referred to in Articles 2 to 4 of the statute of the Tribunal and failed to take the necessary and reasonable measures to prevent the said acts from being committed or to punish those who were responsible.

Emmanuel BAGAMBIKI

COUNT 1: By his acts and omissions described in paragraphs 3.1 to 3.35 and more specifically in the paragraphs to which reference is made hereinbelow:

Emmanuel BAGAMBIKI pursuant to Article 6 (1) paragraphs
3.4.1, 3.9, 3.14, 3.15, 3.16, 3.16 (i)(ii) (iii) (iv)
3.17, 3.22, 3.23, 3.26, 2.28, 3.30, 3.31, 3.32,
3.32 (i), 3.33 and
pursuant to Article 6 (3) paragraphs
3.18, 3.19, 3.20, 3.23, 3.25, 3.27, 3.29, 3.30,
3.31, 3.32, 3.32 (i), 3.33

is responsible for killing and causing serious bodily and mental harm to members of the Tutsi population, with the intent to destroy, in whole or in part, an ethnic or racial group as such, and thereby committed **GENOCIDE**, stipulated in Article 2(3)(a) and (b) as a crime, for which he is individually responsible, and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 2: By his acts or omissions described in paragraphs 3.1 to 3.36 and more specifically in the paragraphs to which reference is made hereinbelow:-

Emmanuel BAGAMBIKI pursuant to Article 6(1) paragraphs
3.14, 3.15, 3.16, 3.16 (i – iv)
pursuant to Article 6(3) paragraphs
3.17 and 3.18

is responsible for killing and causing serious bodily or mental harm to members of the Tutsi population and thereby committed **COMPLICITY IN GENOCIDE**, as stipulated in Article 2(3)(e) as a crime, for which he is individually responsible, and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 3: By his acts and omissions described in paragraphs 3.1 to 3.36 and more specifically in the paragraphs to which reference is made hereinbelow:-

Emmanuel BAGAMBIKI pursuant to Article 6 (1) paragraphs
3.4.1, 3.9, 3.12, 3.13, 3.14, 3.15, 3.16, 3.16 (i)
(ii) (iii) (iv)
pursuant to Article 6(3) paragraphs
3.20, 3.22, 3.23, 3.24, 3.24 (i), 3.26

is responsible for murdering civilians as part of a widespread or systematic attack against a civilian population, on political, ethnic or racial grounds, and thereby committed a **CRIME AGAINST HUMANITY** stipulated in Article 3(a) as a crime, for which he is individually responsible, and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 4: By his acts and omissions described in paragraphs 3.1 to 3.36 and more specifically in the paragraphs to which reference is made hereinbelow:-

Emmanuel BAGAMBIKI pursuant to Article 6(1) paragraphs
3.16, 3.16(i) 3.16(ii) 3.16(iii) 3.16(iv)
Pursuant to Article 6(3) paragraphs
3.27 to 3.33

is responsible for exterminating civilians as part of a widespread or systematic attack against a civilian population, on political, ethnic or racial grounds, and thereby committed a **CRIME AGAINST HUMANITY** stipulated in Article 3(b) as a crime, for which he is individually responsible, and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 5: By his acts and omissions described in paragraphs 3.1 to 3.36 and more specifically in the paragraphs to which reference is made hereinbelow:-

Emmanuel BAGAMBIKI

pursuant to Article 6(1) paragraphs
3.21, 3.22 and 3.32
pursuant to Article 6(3) paragraphs
3.22 and 3.32

is responsible for imprisoning civilians as part of a widespread or systematic attack against a civilian population, on political, ethnic or racial grounds, and thereby committed a **CRIME AGAINST HUMANITY** stipulated in Article 3(e) as a crime, for which he is individually responsible, and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 6: By his acts and omissions described in paragraphs 3.1 to 3.36 and more specifically in the paragraphs to which reference is made hereinbelow:-

Emmanuel BAGAMBIKI

pursuant to Article 6(1) paragraphs
3.32 to 3.34
pursuant to Article 6(3) paragraphs
3.32, 3.32 (i) and 3.33

is responsible for rape as part of a widespread or systematic attack against a civilian population, on political, ethnic or racial grounds, and thereby committed a **CRIME AGAINST HUMANITY** stipulated in Article 3(g) as a crime, for which he is individually responsible, and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 7: By his acts and omissions described in paragraphs 3.1 to 3.36 and more specifically in the paragraphs to which reference is made hereinbelow:-

Emmanuel BAGAMBIKI

pursuant to Article 6 (1) paragraphs
3.32, 3.32 (i) and 3.33
pursuant to Article 6 (3) paragraphs
3.32, 3.32 (i) and 3.33

is responsible for other inhumane acts as part of a widespread or systematic attack against a civilian population, on political, ethnic or racial grounds and thereby committed a **CRIME AGAINST HUMANITY** stipulated in Article 3 (g) as a crime, for which he is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 8: By his acts and omissions described in paragraphs 3.1 to 3.36, during a non-international armed conflict and more specifically in the paragraphs to which reference is made hereinbelow:-

Emmanuel BAGAMBIKI

pursuant to Article 6 (1) paragraphs

3.4.1, 3.26, 3.28, 3.30, 3.31, 3.36
 Pursuant to Article 6 (3) paragraphs
 3.27, 3.30, 3.31

is responsible for causing violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment, and thereby committed **serious violations of Article 3 common to the GENEVA CONVENTIONS of 12 August 1949** for the protection of victims in times of war, **and of Additional Protocol II thereto** of 8 June 1977, stipulated in Article 4 (a) as a crime, for which he is individually responsible, and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 9: By his acts and omissions described in paragraphs 3.1 to 3.36 during a non-international armed conflict and more specifically in the paragraphs to which reference is made hereinbelow:-

Emmanuel BAGAMBIKI pursuant to Article 6 (1) paragraphs
3.32 and 3.34
 pursuant to Article 6 (3) paragraphs
3.32, 3.32 (i) and 3.33

is responsible for causing violence to life, health and physical or mental well-being of persons, in particular, outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault and thereby committed **serious violations of Article 3 common to the GENEVA CONVENTIONS of 12 August 1949** for the protection of victims in times of war, **and of Additional Protocol II thereto** of 8 June 1977, stipulated in Article 4 (e) as a crime, for which he is individually responsible, and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

Samuel IMANISHIMWE

COUNT 10: By his acts and omissions described in paragraphs 3.1 to 3.36 and more specifically in the paragraphs to which reference is made hereinbelow:-

Samuel IMANISHIMWE pursuant to Article 6 (1) paragraphs
 3.14, 3.16, 3.16 (i – iv), 3.17, 3.20, 3.21, 3.22,
 3.23, 3.24, 3.24 (i) 3.30, 3.31, 3.32, 3.32 (i), 3.35

pursuant to Article 6(3) paragraphs
3.14, 3.17, 3.18, 3.22, 3.23, 3.25, 3.30, 3.31,
3.32, 3.32 (i) and 3.33

is responsible for killing and causing serious bodily and mental harm to members of the Tutsi population, with the intent to destroy, in whole or in part, an ethnic or racial group as such, and thereby committed **GENOCIDE**, stipulated in Article 2(3)(a) and (b) as a crime, for which he is individually responsible, and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 11: By his acts and omissions described in paragraphs 3.1 to 3.36 and more specifically in the paragraphs to which reference is made hereinbelow:-

Samuel IMANISHIMWE pursuant to Article 6 (1) paragraphs
3.16, 3.16 (i – iv)
pursuant to Article 6 (3) paragraphs
3.17 and 3.18

is responsible for killing and causing bodily or mental harm to members of the Tutsi population, and thereby committed **COMPLICITY IN GENOCIDE**, stipulated in Article 2(3)(e) as a crime, for which he is individually responsible, and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 12: By his acts and omissions described in paragraphs 3.1 to 3.36 and more specifically in the paragraphs to which reference is made hereinbelow:-

Samuel IMANISHIMWE pursuant to Article 6 (1) paragraphs
3.17, 3.18, 3.20, 3.22, 3.23, 3.24, 3.24 (i) 3.25
and 3.35 and
pursuant to Article 6 (3) paragraphs
3.18, 3.22, 3.23 and 3.24

is responsible for murdering civilians as part of a widespread or systematic attack against a civilian population, on political, ethnic or racial grounds, and thereby committed a **CRIME AGAINST HUMANITY** stipulated in Article 3(a) as a crime, for which he is individually responsible and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 13: By his acts and omissions described in paragraphs 3.1 to 3.36 and more specifically in the paragraphs to which reference is made hereinbelow:-

Samuel IMANISHIMWE pursuant to Article 6 (1)

3.16, 3.16 (i to iv)
pursuant to Article 6 (3)
3.27 to 3.33

is responsible for exterminating civilians as part of a widespread or systematic attack against a civilian population, on political, ethnic or racial grounds, and thereby committed a **CRIME AGAINST HUMANITY**, stipulated in Article 3(b) as a crime, for which he is individually responsible and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 14: By his acts and omissions described in paragraphs 3.1 to 3.36 and more specifically in the paragraphs to which reference is made hereinbelow:-

Samuel IMANISHIMWE pursuant to Article 6 (1) paragraphs
3.21, 3.22, 3.24, 3.25, 3.32, 3.35 and
Pursuant to Article 6 (3) paragraphs
3.22 and 3.32

is responsible for imprisoning civilians as part of a widespread or systematic attack against a civilian population, on political, ethnic or racial grounds, and thereby committed a **CRIME AGAINST HUMANITY**, stipulated in Article 3(e) as a crime, for which he is individually responsible and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 15: By his acts omissions described in paragraphs 3.1 to 3.36 and more specifically in the paragraphs to which reference is made hereinbelow:-

Samuel IMANISHIMWE pursuant to Article 6 (1) paragraphs
3.24 and 3.25 and
pursuant to Article 6 (3) paragraphs
3.24 and 3.25

is responsible for torturing civilians as part of a widespread or systematic attack against a civilian population, on political, ethnic or racial grounds, and thereby committed a **CRIME AGAINST HUMANITY** stipulated in Article 3(f) as a crime, for which he is individually responsible and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 16: By his acts and omissions described in paragraphs 3.1 to 3.36 and more specifically in the paragraphs to which reference is made hereinbelow:-

Samuel IMANISHIMWE pursuant to Article 6 (1) paragraphs
3.32, 3.32 (i), 3.33, 3.35 and
pursuant to Article 6 (3) paragraphs
3.32, 3.32 (i) and 3.33

is responsible for rape as part of a widespread or systematic attack against a civilian population, on political, ethnic or racial grounds, and thereby committed a **CRIME AGAINST HUMANITY** stipulated in Article 3(g) as a crime, for which he is individually responsible and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 17: By his acts and omissions described in paragraphs 3.1 to 3.36 and more specifically in the paragraphs to which reference is made hereinbelow:-

Samuel IMANISHIMWE pursuant to Article 6 (1) paragraphs
3.32 (i) and 3.35
pursuant to Article 6 (3) paragraphs
3.32, 3.32 (i) and 3.33

is responsible for other inhumane acts as part of a widespread or systematic attack against a civilian population, on political, ethnic or racial grounds, and thereby committed a **CRIME AGAINST HUMANITY** stipulated in Article 3(i) as a crime, for which he is individually responsible and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 18: By his acts and omissions described in paragraphs 3.1 to 3.36 and more specifically in the paragraphs which are referred to hereinbelow:-

Samuel IMANISHIMWE pursuant to Article 6 (1) paragraphs
3.16 (iv), 3.22, 3.23, 3.24, 3.25, 3.30, 3.31
and 3.36
Pursuant to Article 6(3) paragraphs,
3.22, 3.23, 3.24, 3.25, 3.30, 3.31

is responsible for causing violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment, and thereby committed **serious violations of Article 3 common to the GENEVA CONVENTIONS of 12 August 1949** for the protection of victims in times of war, **and of Additional Protocol II thereto** of 8 June 1977, stipulated in Article 4 (a) as a crime, for which he is individually responsible and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 19: By his acts and omissions described in paragraphs 3.1 to 3.36 during a non-international armed conflict and more specifically in the paragraphs to which reference is made hereinbelow:-

Samuel IMANISHIMWE pursuant to Article 6 (1) paragraphs
3.32, 3.32 (i), 3.33, 3.35 and 3.36

Pursuant to Article 6 (3) paragraphs
3.32, 3.32 (i) and 3.33

is responsible for causing violence to life, health and physical or mental well-being of persons, in particular, outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault and thereby committed **serious violations of Article 3 common to the GENEVA CONVENTIONS of 12 August 1949** for the protection of victims in times of war, **and of Additional Protocol II thereto** of 8 June 1977, stipulated in Article 4 (e) as a crime, for which he is individually responsible and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

Yussuf MUNYAKAZI

COUNT 20: By his acts and omissions described in paragraphs 3.1 to 3.36 and more specifically in the paragraphs to which reference is made hereinbelow:-

Yussuf MUNYAKAZI

pursuant to Article 6 (1) paragraphs
3.11, 3.14, 3.15, 3.16, 3.16 (i), (ii), (iv), 3.19,
3.29, 3.30, 3.31 3.32, 3.32 (i) and 3.33
pursuant to Article 6(3) paragraphs
3.11, 3.16, 3.16 (i),(ii), (iv), 3.18, 3.19, 3.22,
3.25, 3.29, 3.30, 3.31, 3.32, 3.32 (i) and 3.33

is responsible for killing and causing serious bodily and mental harm to members of the Tutsi population, with the intent to destroy, in whole or in part, an ethnic or racial group as such, and thereby committed **GENOCIDE**, stipulated in Article 2(3)(a) and (b) as a crime, for which he is individually responsible and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 21: By his acts and omissions described in paragraphs 3.1 to 3.36 and more specifically in the paragraphs to which reference is made hereinbelow:-

Yussuf MUNYAKAZI

pursuant to Article 6 (1) paragraphs
3.14, 3.15, 3.16, 3.16 (i) (ii) and (iv)
Pursuant to Article 6 (3) paragraphs
3.18 and 3.22

is responsible for killing and causing bodily or mental harm to members of the Tutsi population, and thereby committed **COMPLICITY IN GENOCIDE**, stipulated in Article 2(3)(e) as a crime, for which he is individually responsible

and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 22: By his acts and omissions described in paragraphs 3.1 to 3.36 and more specifically in the paragraphs to which reference is made hereinbelow:-

Yussuf MUNYAKAZI

pursuant to Article 6 (1) paragraphs
3.19, 3.25, 3.29

pursuant to Article 6 (3) paragraphs
3.18, 3.30

is responsible for murdering civilians as part of a widespread or systematic attack against a civilian population, on political, ethnic or racial grounds, and thereby committed a **CRIME AGAINST HUMANITY** stipulated in Article 3(a) as a crime, for which he is individually responsible and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 23: By his acts and omissions described in paragraphs 3.1 to 3.36 and more specifically in the paragraphs to which reference is made hereinbelow:-

Yussuf MUNYAKAZI

pursuant to Article 6 (1) paragraphs
3.11, 3.15, 3.16, 3.16 (i), (ii), (iv), 3.29, 3.30,
3.31 and

pursuant to Article 6 (3) paragraphs
3.11, 3.16, 3.18, 3.22, 3.29, 3.30, 3.31

is responsible for exterminating civilians as part of a widespread or systematic attack against a civilian population, on political, ethnic or racial grounds, and thereby committed a **CRIME AGAINST HUMANITY** stipulated in Article 3(b) as a crime, for which he is individually responsible and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 24: By his acts and omissions described in paragraphs 3.1 to 3.36 and more specifically in paragraphs 3.32, 3.32 (i) and 3.33, **Yussuf MUNYAKAZI** is responsible for rape as part of a widespread or systematic attack against a civilian population, on political, ethnic or racial grounds, and thereby committed a **CRIME AGAINST HUMANITY** stipulated in Article 3(g) as a crime, for which he is individually responsible pursuant to Article 6(3), and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

COUNT 25 : By his acts and omissions described in paragraphs 3.1 to 3.36 and more specifically in paragraphs 3.32, 3.32 (I) and 3.33, **Yussuf MUNYAKAZI**

is repsonsible for other inhumane acts as part of a widespread or systematic attack against a civilian population on political, ethnic or racial grounds and thereby committed a CRIME AGAINST HUMANITY stipulated in Article 3 (g) as a crime for which he is individually responsible pursuant to Article 6 (3) and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

~~COUNT 26: By his acts and omissions described in paragraphs 3.1 to 3.36 and more specifically in the paragraphs to which reference is made hereinbelow:-~~

Yussuf MUNYAKAZI	pursuant to Article 6(1) paragraphs 3.11, 3.14, 3.15, 3.16 (iv), 3.25, 3.29, 3.30, 3.31, 3.36 and pursuant to Article 6(3) paragraphs 3.11, 3.16, 3.16 (i), (ii), 3.18, 3.22, 3.25, 3.29, 3.30, 3.31
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is responsible for causing violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment, and thereby committed **serious violations of Article 3 common to the GENEVA CONVENTIONS of 12 August 1949** for the protection of victims in times of war, **and of Additional Protocol II thereto** of 8 June 1977, stipulated in Article 4 (a) as a crime, for which he is individually responsible and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

~~COUNT 27: By his acts and omissions described in paragraphs 3.1 to 3.36 and more specifically in paragraphs 3.32, 3.32 (i) and 3.33, during a non-international armed conflict, **Yusuf MUNYAKAZI** is responsible for causing violence to life, health and physical or mental well-being of persons, in particular, outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault and thereby committed **serious violations of Article 3 common to the GENEVA CONVENTIONS of 12 August 1949** for the protection of victims in times of war, **and of Additional Protocol II thereto** of 8 June 1977, stipulated in Article 4 (c) as a crime, for which he is individually responsible pursuant to Article 6(3), and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.~~

**Emmanuel BAGAMBIKI and
Samuel IMANISHIMWE and
Yussuf MUNYAKAZI**

COUNT 28: By their acts and omissions described in paragraphs 3.12 to 3.30, notably in paragraphs 3.14 and 3.16 (i) to (vi), **Emmanuel BAGAMBIKI, Samuel IMANISHIMWE and Yussuf MUNYAKAZI** did conspire among themselves and together with others, including notably André NTAGERURA, Christophe NYANDWI, Michel BUSUNYU and Edouard BANDETSE, to commit genocide and thereby committed **CONSPIRACY TO COMMIT GENOCIDE**, stipulated in Article 2 (3) (b), as a crime, for which they are individually responsible pursuant to Article 6 (1) and which is punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

Arusha, this second day of December 1999

For the Prosecutor:

A handwritten signature in black ink, appearing to be 'B. Muna', written over a horizontal line.

Bernard A. Muna
Deputy Prosecutor